

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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TREXEL, INC. and  
MASSACHUSETTS INSTITUTE  
OF TECHNOLOGY,

Plaintiffs

v.

DISPOZO PRODUCTS, INC.,

Defendant

) Civil Action No.

) **PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION TO  
PRESERVE EVIDENCE**

**04cv10879 JLT**

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Plaintiffs Trexel, Inc. and Massachusetts Institute of Technology move for a preliminary injunction requiring defendant Dispozo Products, Inc. (“Dispozo”) to preserve evidence relevant to Plaintiffs’ claims for, among other things, patent infringement and misappropriation of trade secrets. In particular, Plaintiffs request that Dispozo be enjoined from destroying or altering:

- documents referring to, describing or relating to the technology or designs

which it has used prior to or is using during the pendency of this action for the manufacture of Microcellular Foam Products, including but not limited to Envirofoam School Trays (“MFPs”);

- documents referring to, describing or relating to the “patented CO<sub>2</sub> foaming

process” referred to on Dispozo’s web site for manufacturing Envirofoam School Trays;

- documents referring to, describing or relating to any of the patents identified

in the Complaint;

• documents referring to, describing or relating to the Settlement Agreement identified in the Complaint;

- equipment which Dispozo has used prior to or is using during the pendency of this action for the manufacture of MFPs;
- equipment which Dispozo has used prior to or is using during the pendency of this action in connection with the "patented CO2 foaming process" referred to on Dispozo's web sites;
- data generated by any device or system for reporting on processing conditions related to the production of MFPs, including, without limitation, any extrusion system;
- documents referring to, describing or relating to data generated by any device or system for reporting on processing conditions related to the production of MFPs, including, without limitation, any extrusion system;
- documents referring to, describing or relating to sales of any products made, in whole or in part, with equipment which Dispozo has used prior to or is using during the pendency of this action for the manufacture of MFPs; and
- documents referring to, describing or relating to sales of any products made, in whole or in part, with equipment which Dispozo has used prior to or is using during the pendency of this action in connection with the "patented CO2 foaming process" referred to on Dispozo's web sites.

With respect to the definition of "documents", the Plaintiffs refer to the definition in Fed. Rule Civ. P. 34(a).

With respect to equipment and designs, the Plaintiffs include, without limitation:

- primary polymer processing screws;

- CO<sub>2</sub> injectors; and
- die lips.

With respect to processes, the Plaintiffs include, without limitation:

- CO<sub>2</sub> concentrations;
- required temperatures of the polymer gas combination at the die entrance;
- required temperatures of the die lips;
- required temperatures of the polymer at the exit of the die; and
- pressure regimens of the entry and exit of the die.

In support of their motion, Plaintiffs rely on their Verified Complaint alleging patent infringement and misappropriation of trade secrets and state further that without the proposed order there is a danger that Dispozo will destroy or alter documents or equipment demonstrating Dispozo's liability. Plaintiffs also rely on the accompanying memorandum of law.

In further support of their Motion, Plaintiffs state that they are prepared to abide by the same conditions which they seek to impose on Dispozo with respect to documents referring to or equipment or processes embodying the patents and trade secrets identified in the Verified Complaint.

TREXEL, INC. and  
MASSACHUSETTS INSTITUTE OF  
TECHNOLOGY

Plaintiffs,

By their attorneys,

*Richard A. Johnston*

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Dated: May 4, 2004